

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

THOMAS E. PEREZ, Secretary of Labor,  
United States Department of Labor,

Plaintiff,

vs.

ALFRED H. CHAN, M.D., P.C., a  
corporation; ALFRED H. CHAN, an  
individual; JUDY H. CHAN, an individual;  
ALFRED H. CHAN, M.D., P.C. DEFINED  
BENEFIT PLAN & TRUST, an employee  
pension benefit plan

Defendant.

Case No. 2:15-cv-538-RAJ

**ORDER**

This matter comes before the Court on the “Fee Application” of Robert Moore, the Independent Fiduciary of the Alfred H. Chan, M.D., P.C. Defined Benefit Plan & Trust. Dkt. # 8. Mr. Moore’s Fee Application requests approval of \$12,342.50 in additional fees and expenses related to the continued administration of the Plan. *Id.* No party has filed a response to the Fee Application.

Under the terms of this Court’s previous Order, the Independent Fiduciary’s fees were capped at \$17,500. Dkt. # 6 at 3. In order to receive approval for additional fees, the Independent Fiduciary was required to (a) provide the Court with an itemized fee application; and (b) “concurrently send a copy of this application and any supporting

1 documents to the Secretary's representative, San Francisco EBSA Regional Director  
2 (currently Jean Ackerman) at 90 Seventh Street, Suite 11-300, San Francisco, CA  
3 94103." *Id.* The Secretary would then have 15 calendar days to object to the application.  
4 *Id.*

5 Here, although Mr. Moore filed an itemized application, he did not provide any  
6 proof that he "concurrently" sent a copy of this Fee Application to the Secretary at the  
7 San Francisco location. Mr. Moore's Certificate of Service indicates that the Fee  
8 Application was sent to the United States Department of Labor in Seattle, but does not  
9 mention San Francisco. Dkt. # 8 at 6. This Court's previous Order set the requirement to  
10 send a copy to the San Francisco location as a clear condition precedent to receiving  
11 approval for additional fees, and the Court does not intend to rewrite its previous Order.

12 Accordingly, the Court **DENIES WITHOUT PREJUDICE** the Fee Application.  
13 Dkt. # 8. The Independent Fiduciary may re-file his application, which this Court  
14 expects to contain *both* an itemized list of expenses and proof that the application was  
15 sent to the Secretary's representative, San Francisco EBSA Regional Director at 90  
16 Seventh Street, Suite 11-300, San Francisco, CA 94103.

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18 Dated this day of 17th April, 2019.

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22 The Honorable Richard A. Jones  
23 United States District Judge  
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